

## § 1.665(a)-0

## 26 CFR Ch. I (4-1-09 Edition)

(f) *Effective dates.* This section applies after April 30, 1999.

[T.D. 8540, 59 FR 30117, June 10, 1994, as amended by T.D. 8819, 64 FR 23199, Apr. 30, 1999; T.D. 8886, 65 FR 36919, 36943, June 12, 2000]

### TREATMENT OF EXCESS DISTRIBUTIONS OF TRUSTS APPLICABLE TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1969

#### § 1.665(a)-0 Excess distributions by trusts; scope of subpart D.

Subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Internal Revenue Code, in the case of trusts other than foreign trusts created by U.S. persons, is designed generally to prevent a shift of tax burden to a trust from a beneficiary or beneficiaries. In the case of a foreign trust created by a U.S. person, subpart D is designed to prevent certain other tax avoidance possibilities. To accomplish these ends, subpart D provides special rules for treatment of amounts paid, credited, or required to be distributed by a complex trust (subject to subpart C (section 661 and following) of such part I) in any year in excess of distributable net income for that year. Such an excess distribution is defined as an accumulation distribution, subject to the limitations in section 665 (b) or (c). An accumulation distribution, in the case of a trust other than a foreign trust created by a U.S. person, is "thrown back" to each of the 5 preceding years in inverse order. In the case of a foreign trust created by a U.S. person such an accumulation distribution is "thrown back," in inverse order, to each of the preceding years to which the Internal Revenue Code of 1954 applies. That is, an accumulation distribution will be taxed to the beneficiaries of the trust in the year the distribution is made or required, but, in general, only to the extent of the distributable net income of those years which was not in fact distributed. However, with respect to a distribution by a trust other than a foreign trust created by a U.S. person, the resulting tax will not be greater than the aggregate of the taxes that would have been attributable to the amount thrown back to previous years had they been in-

cluded in gross income of the beneficiaries in those years. In the case of a foreign trust created by a U.S. person, the resulting tax is computed under the provisions of section 669. To prevent double taxation, both in the case of a foreign trust created by a U.S. person, and a trust other than a foreign trust created by a U.S. person, the beneficiaries receive a credit for any taxes previously paid by the trust which are attributable to the excess thrown back and which are creditable under the provisions of chapter 1 of the Internal Revenue Code. Subpart D does not apply to any estate.

[T.D. 6989, 34 FR 733, Jan. 17, 1969]

#### § 1.665(a)-1 Undistributed net income.

(a) The term *undistributed net income* means for any taxable year the distributable net income of the trust for that year as determined under section 643(a), less:

(1) The amount of income required to be distributed currently and any other amounts properly paid or credited or required to be distributed to beneficiaries in the taxable year as specified in paragraphs (1) and (2) of section 661(a), and

(2) The amount of taxes imposed on the trust, as defined in § 1.665(d)-1.

The application of the rule in this paragraph to the first year of a trust in which income is accumulated may be illustrated by the following example:

*Example.* Assume that under the terms of the trust, \$10,000 of income is required to be distributed currently to A and the trustee has discretion to make additional distributions to A. During the taxable year 1954 the trust had distributable net income of \$30,100 derived from royalties and the trustee made distributions of \$20,000 to A. The taxable income of the trust is \$10,000 on which a tax of \$2,640 is paid. The undistributed net income of the trust as of the close of the taxable year 1954 is \$7,460 computed as follows:

Distributable net income .....	\$30,100
Less:	
Income currently distributable to	
A .....	\$10,000
Other amounts distributed to A ..	10,000
Taxes imposed on the trust (see	
§ 1.665(d)-1) .....	2,640
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	22,640
Undistributed net income .....	7,460